



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

T.B.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
v.	:	ORDER OF REMAND
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 18397-2016
	:	
AND HEALTH SERVICES AND	:	
	:	
PASSAIC COUNTY BOARD OF	:	
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the OAL case file and the Initial Decision approving the Settlement Agreement reached by the parties. Procedurally, the time period for the Agency Head to file a Final Decision is March 9, 2017, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision was received on January 23, 2017.

This matter arises from the November 21, 2016 denial by Passaic County Board of Social Services (Passaic County) of Petitioner's application for Medicaid benefits due to excess resources. At the scheduled January 17, 2017 OAL hearing, the parties entered into a settlement on the record whereby the parties agreed Passaic County would find out if the resource is exempt. The resource at issue is a retirement account.

I hereby REJECT the Settlement Agreement as the issue of retirement accounts being an available resource is settled. Moreover, Petitioner would have to prove otherwise. See Mistrick v. DMAHS, 154 N.J. 158 (1998) ("We note that an IRA holder generally has the right, authority, and power to gain access to the funds in such an account. See Ernst & Young's Retirement Planning Guide 84 (1997); The Vanguard Guide to Planning for Retirement 184 (3d ed.1998). A Medicaid applicant seeking to argue that an IRA is unavailable would have the burden of proving its unavailability."). Thus, the Settlement Agreement does not resolve this issue and does not fully resolve the issue of the denial of Petitioner's application.

As there are outstanding issues regarding Petitioner's financial eligibility, this Agreement does not dispose of all issues in controversy. Thus, I REJECT the Settlement Agreement as it does not comply with the law nor does it resolve the denial of Petitioner's benefits.

THEREFORE, it is on this ^{8th} day of MARCH 2017,

ORDERED:

That the Initial Decision approving the terms of the Settlement Agreement in this matter is hereby REJECTED; and

That the matter is hereby REMANDED to the Office of Administrative Law for further action on the denial of Petitioner's Medicaid application.



Meghan Davey, Director
Division of Medical Assistance
and Health Services